IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4891 of 1997
With
SPECIAL CIVIL APPLICATION No. 4892 of 1997

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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Z M A MUNSHI - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR BIREN A VAISHNAV for Petitioner(s) : 1,
MR KIRAN PANDEY, ASSTP GOVERNMENT PLEADER for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 31/01/2007

COMMON ORAL JUDGMENT

1. By way of these petitions under Article 226 of the Constitution of India, both the petitioners have challenged their fixation of seniority in the cadre

of Assistant Commissioners of Labour.

2. It is the case on behalf of the petitioners that though the petitioners were shown senior to certain persons in the final seniority list of Government Labour Officers, whose names appear in paragraph – 2.7 of the petition have been promoted earlier as Assistant Commissioners of Labour. Therefore, it is submitted that they ought to be granted deemed date of promotion in the cadre of Assistant Commissioner of Labour.

3. It appears that the petitioners have made representations on 23rd July, 1992, 17th August, 1996 and 15th May, 1997 for grant of deemed date of promotion in the cadre of Assistant Commissioners of Labour. An affidavit in reply has been filed in both these petitions affirmed by one Shri S.K.Bamaniya, Under Secretary, Labour & Employment Department and in paragraph – 5 of the reply it is submitted that the matter of grant of deemed date of promotion of the petitioners is under consideration. It is also further submitted in the reply that the representation of the petitioners dated 27th March, 1992 is under consideration.

4. Under the circumstances, without expressing any opinion on merits, the respondents are directed to consider the representation dated 23rd July, 1992 and/or the subsequent representations in accordance with law and on merits as early as possible preferably within a period of 4 months from the date of receipt of this order and communicate the outcome of the same to the respective petitioners. If the petitioners are aggrieved then it will be open for the petitioners to file a fresh petition, which will be decided in accordance with law and on merits. It is again made clear that this Court has not expressed any opinion on the merits of the case and it is, ultimately, for the respondents to take an appropriate decision in accordance with law and on merits.

5. With these, both these petitions are disposed of. Rule discharged. No costs.

[M.R.Shah, J.]

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